



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 300**

**[EPA-HQ-SFUND-2012-0738; FRL- 9712-9]**

**[RIN 2050-AG73]**

### **National Oil and Hazardous Substances Pollution Contingency Plan; Revision to Increase Public Availability of the Administrative Record File**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to amend the National Oil and Hazardous Substances Pollution Contingency Plan, to acknowledge advancements in technologies used to manage and convey information to the public. Specifically, this revision will add language to EPA regulations to broaden the technology, to include computer telecommunications or other electronic means, that the lead agency is permitted to use to make the administrative record file available to the public. By updating language used to describe permitted technology, the lead agency will be able to serve the information needs of a broader population while maintaining the ability to provide traditional means of public access to the administrative record file, such as paper copies and microform. The lead agency should assess the capacity and resources of the public to utilize and maintain an electronic- or computer telecommunications-based repository to make a decision on which approach suits a specific site.

**DATES:** Written comments must be received by **[Insert date 30 days from date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. **EPA-HQ-SFUND-2012-0738**, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- Email: [superfund.docket@epa.gov](mailto:superfund.docket@epa.gov)
- Fax: 202-566-9744
- Mail: U.S. Environmental Protection Agency, EPA Docket Center (EPA/DC), Superfund Docket, Mailcode: 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.
- Hand Delivery: EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC 20460. Attention Docket ID No. **EPA-HQ-SFUND-2012-0738**. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. **EPA-HQ-SFUND-2012-0738**.

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is

restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Superfund Docket (Docket ID No. **EPA-HQ-SFUND-2012-0738**). This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Superfund Docket telephone number is (202) 566-0276. EPA Docket

Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** For general information, contact the Superfund, TRI, EPCRA, RMP and Oil Information Center at (800) 424-9346 or TDD (800) 553-7672 (hearing impaired). In the Washington, DC metropolitan area, call (703) 412-9810 or TDD (703) 412-3323. For more detailed information on specific aspects of this final rule, contact Melissa Dreyfus at (703) 603-8792 ([dreyfus.melissa@epa.gov](mailto:dreyfus.melissa@epa.gov)), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460-0002, Mail Code 5204P.

## **SUPPLEMENTARY INFORMATION:**

### **I. Why Is EPA Issuing This Proposed Rule?**

This document proposes to amend the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), to acknowledge advancements in technologies used to manage and convey information to the public. Specifically, this revision will add language to 40 CFR 300.805(c)—Location of the Administrative Record File in Subpart I—Administrative Record for Selection of Response Action to broaden the technology, to include computer telecommunications or other electronic means, that the lead agency is permitted to use to make the administrative record file available to the public. We have published a direct final rule to add this language in the “Rules and Regulations” section of this Federal Register because we view this as a noncontroversial action and anticipate

no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will timely withdraw the direct final rule and it will not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

## **II. What Does This Amendment Do?**

This proposed rule would amend 40 CFR 300.805(c)-Location of the Administrative Record File in Subpart I-Administrative Record for Selection of Response Action of the National Oil and Hazardous Substances Pollution Contingency Plan, to acknowledge advancements in technologies used to manage and convey information to the public. Specifically, this revision will add language to broaden the technology, to include computer telecommunications or other electronic means, that the lead agency is permitted to use to make the administrative record file available to the public regarding documents that form the basis for the selection of a response action. This amendment does not limit the lead agency's ability to make the administrative record file available to the public in traditional forms such as paper and microform. The lead agency should assess the capacity and resources of the public to utilize and maintain an electronic- or computer telecommunications-based repository to make a decision on which approach

suits a specific site. Based on the preferences of the community and the lead agency's assessment of the site-specific situation, the lead agency will determine whether to provide: 1) traditional forms (e.g. paper copies; microform) 2) electronic resources, or 3) both traditional forms and electronic resources.

### **III. Statutory and Executive Order Reviews**

For a complete discussion of all of the administrative requirements applicable to this action, see the discussion in the "Statutory and Executive Order Reviews" section to the preamble for the direct final rule that is published in the Rules and Regulations section of this Federal Register.

Under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011), this proposed action is not a "significant regulatory action" and is therefore not subject to OMB review. This action merely adds language to 40 CFR 300.805(c) of the NCP to broaden the technology to include computer telecommunications or other electronic means that the lead agency is permitted to use to make the administrative record file available to the public. This action will enable the lead agency to serve the information needs of a broader population while maintaining the ability to provide traditional means of public access, such as paper copies and microform, to the administrative record file. This action does not impose any requirements on any entity, including small entities. Therefore, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), after considering the economic impacts

of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 26, 2012

Mathy Stanislaus,  
Assistant Administrator,  
Office of Solid Waste and Emergency Response.

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